

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
NO. 4:98-CR-23-1H

UNITED STATES OF AMERICA,

v.

JOSEPH DANIELS,

Defendant.

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ORDER

This matter is before the court on defendant's motion, filed as a letter, on April 22, 2010 asking this court to allow him to file a Notice of Appeal of this court's order denying his motion to reduce sentence.

By order entered October 23, 2009, this court denied defendant's motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c). However, according to defendant's motion, he did not receive a copy of the denial order until he inquired as to the status of the motion in March of 2010. By letter dated April 22, 2010, the Clerk forwarded a copy of the order to defendant.

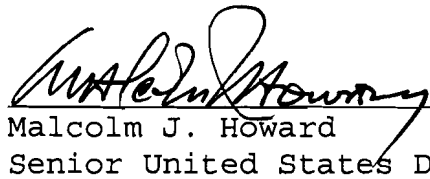
It appears that defendant's attorney, Steven Jay Rozen, has been suspended from the practice of law by the State Bar of

Texas for client neglect and was under investigation during the time period at issue.

Defendant moves this court to allow him to appeal the order of October 23, 2009. In light of the peculiar facts of this case, this court would be willing to allow defendant to file his notice of appeal. However, Rule 4 of the Federal Rules of Appellate Procedure prohibits such action by this court at this juncture. See Fed. R. App. P. 4(b)(4) (authorizing district court to extend the time for filing an appeal for a period not to exceed 30 days from expiration of the appeal deadline).

The court is left with no alternative but to deny defendant's motion. Therefore, the motion [DE #85] is DENIED.

This 9th day of November 2010.


Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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